

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NORTH CAROLINA
WESTERN DIVISION

UNITED STATES OF AMERICA,)
)
)
V.) 5:10-CR-5-1-BR
)
)
DANIEL AGUIRRE CARRANZA,)
)
)
DEFENDANT.)
)

SENTENCING
AUGUST 2, 2010
BEFORE THE HONORABLE W. EARL BRITT
SENIOR U.S. DISTRICT JUDGE

APPEARANCES:

FOR THE GOVERNMENT:

MR. ERIC GOULIAN
ASST. U.S. ATTORNEY
310 NEW BERN AVE.
RALEIGH, NC

FOR THE DEFENDANT:

MR. ANDREW MCCOPPIN
ATTORNEY AT LAW
1250 S.E. MAYNARD RD., SUITE 202
CARY, NC

COURT REPORTER: DONNA J. TOMAWSKI
STENOTYPE WITH COMPUTER AIDED TRANSCRIPTION

1 AUGUST 2, 2010

2 (SPANISH INTERPRETER SWORN.)

3 **THE COURT:** LET THE DEFENDANT BE SWORN.

4 (DEFENDANT SWORN.)

5 **THE COURT:** MR. MCCOPPIN, HAVE YOU AND YOUR
6 CLIENT RECEIVED AND HAD AN OPPORTUNITY TO READ AND REVIEW
7 THE PRESENTENCE REPORT?

8 **MR. McCOPPIN:** YES.

9 **THE COURT:** MR. CARRANZA, YOU HEARD YOUR LAWYER
10 TELL ME THAT YOU AND HE HAD RECEIVED AND HAD AN
11 OPPORTUNITY TO READ AND REVIEW THIS PRESENTENCE REPORT; IS
12 THAT CORRECT?

13 **THE DEFENDANT:** YES.

14 **THE COURT:** ALL RIGHT. YOU MAY HAVE A SEAT.

15 ALL RIGHT. THE COURT WILL DEAL WITH THE OBJECTIONS
16 SET OUT IN THE ADDENDUM IN THE ORDER LISTED.

17 THE FIRST OBJECTION IS TO PARAGRAPHS 17, 18 AND 56,
18 DEALING WITH ASSIGNMENT OF CRIMINAL HISTORY POINTS.

19 MR. MCCOPPIN, I HAVE READ YOUR OBJECTION. I HAVE
20 READ THE PROBATION OFFICE'S RESPONSE. DO YOU DESIRE TO BE
21 HEARD FURTHER ON THAT OBJECTION?

22 **MR. McCOPPIN:** YES, PLEASE.

23 **THE COURT:** YOU MAY PROCEED.

24 **MR. McCOPPIN:** YOUR HONOR, THE ONE POINT FOR
25 CRIMINAL CONVICTION IS IN RELATION TO A DRIVING WHILE

1 LICENSE REVOKED CASE, THE SORT OF CASE THAT NORMALLY UNDER
2 4A1.2C, WOULD BE EXCLUDED BUT FOR THE FACT THAT HERE WE
3 HAVE A SENTENCE OF 45 DAYS, GREATER THAN 30, AND
4 PROBATIONARY TERM GREATER THAN A YEAR.

5 THAT IS THE ONLY SCOREABLE CRIMINAL HISTORY POINT
6 THAT HE HAS. HE WAS PLACED ON PROBATION. PART OF THE
7 CONVICTED CONSPIRACY OCCURRED DURING THAT PROBATION AND SO
8 PROBATION HAS ADDED TWO ADDITIONAL POINTS FOR COMMISSION
9 OF THE INSTANT OFFENSES DURING THAT PERIOD OF PROBATION.

10 I WOULD SUBMIT THAT THREE CRIMINAL HISTORY POINTS
11 OVERSTATES MR. CARRANZA'S CRIMINAL HISTORY, IN THAT WE
12 HAVE AN OFFENSE THAT BUT FOR A SOMEWHAT LONGER THAN NORMAL
13 STATE COURT SENTENCE, WOULDN'T HAVE BEEN COUNTED IN THE
14 FIRST PLACE. AND THEN MORE POINTS FOR THE COMMISSION OF
15 THIS OFFENSE DURING THAT PERIOD OF PROBATION THAN THE
16 ORIGINAL CONVICTION EVEN WOULD HAVE APPLIED, TWO POINTS
17 VERSUS ONE.

18 I WOULD SUBMIT THAT BASED UPON THAT, THE COURT
19 CONSIDER A CRIMINAL HISTORY LEVEL I TO BE APPROPRIATE AND
20 APPLY IT HERE. THANK YOU.

21 **THE COURT:** WELL, IT SOUNDS TO ME LIKE YOU ARE
22 ARGUING FOR A DEPARTURE BASED ON THE OVER-STATEMENT OF
23 CRIMINAL HISTORY. THAT DOES NOT AFFECT THE GUIDELINE
24 CALCULATION. YOU CAN ARGUE THAT AT THE APPROPRIATE TIME
25 OR I'LL TAKE THAT INTO CONSIDERATION.

1 AS FAR AS THE ASSESSMENT CALCULATION, IT APPEARS TO
2 ME TO BE CORRECT, AND THAT OBJECTION IS OVERRULED.

3 THE NEXT OBJECTION IS TO PARAGRAPH SEVEN, EIGHT, TEN
4 AND 47 DEALING WITH DRUG QUANTITIES.

5 AGAIN, I HAVE READ THE PROBATION OFFICER'S SUMMARY OF
6 YOUR OBJECTION AND THE PROBATION OFFICER'S RESPONSE.
7 WOULD YOU LIKE TO ARGUE THAT FURTHER?

8 **MR. McCOPPIN:** YES, PLEASE.

9 **THE COURT:** OKAY.

10 **MR. McCOPPIN:** YOUR HONOR, AS YOU WOULD RECALL,
11 IN THIS PARTICULAR TRIAL THERE WAS A SPECIAL JURY VERDICT
12 IN RELATION TO COCAINE. IT ASKED THE JURY TO DETERMINE
13 WHETHER THERE WERE FEWER THAN 500 GRAMS, MORE THAN 500 BUT
14 FEWER THAN 5 KILOGRAMS, OR GREATER THAN 5 KILOGRAMS OF
15 COCAINE.

16 IN THIS PARTICULAR CASE, THE JURY CAME BACK WITH A
17 CONVICTION FOR CONSPIRACY OF MORE THAN 500 GRAMS BUT FEWER
18 THAN 5 KILOGRAMS OF COCAINE.

19 THE GOVERNMENT HAS SUBMITTED, THROUGH THEIR PROFFER
20 TO PROBATION, THAT THE DEFENDANT IS RESPONSIBLE FOR IN
21 EXCESS OF 135 KILOGRAMS OF COCAINE, AND THAT WEIGHT IS,
22 THE LION'S SHARE OF IT, BY FAR, IS WHAT THE CONFIDENTIAL
23 INFORMANT I REFERRED TO IN MY SENTENCING MEMO AND THE
24 WITNESS THAT TESTIFIED BEFORE YOU, MR. LIVENGOOD,
25 ATTRIBUTED TO MR. CARRANZA HERE.

1 THE JURY HEARD THAT EVIDENCE AND THE JURY DETERMINED
2 IT TO BE UNCREDIBLE BASED ON ITS FINDING THAT FEWER THAN
3 5 KILOGRAMS WAS THE APPROPRIATE WEIGHT. I REALIZE THAT
4 YOUR HONOR HAS A DIFFERENT STANDARD OF PROOF THAT YOU
5 MIGHT CHOOSE TO APPLY IN THIS PARTICULAR CASE. FOR WHAT
6 WE HAVE HERE IS THE GOVERNMENT ASKING PROBATION TO APPLY
7 AN INCREDIBLY GROSSER QUANTITY OF POWDER COCAINE THAN THE
8 JURY FOUND AT TRIAL.

9 YOUR HONOR, YOU CLEARLY HAVE THE DISCRETION TO WEIGH
10 THE TESTIMONY AND WHAT'S IN THE PROBATION REPORT, BUT WHAT
11 THE PROBATION REPORT SAYS IS THEY HAVEN'T MADE ANY
12 INDEPENDENT EVALUATION OF WHAT IS OR ISN'T CREDIBLE; THEY
13 HAVE MERELY RELIED ON WHAT THEY HAVE BEEN TOLD BY THE
14 GOVERNMENT.

15 AS I MENTION IN MY PRESENTENCE REPORT, THERE'S AT
16 LEAST ONE E-MAIL FROM 2007 BETWEEN THE DETECTIVE AND THE
17 U. S. ATTORNEY'S OFFICE WHICH GIVES SOME INDICATION THAT
18 MR. LIVENGOOD MAY NOT HAVE A VERY CLEAR RECOLLECTION OF
19 ANY DRUG QUANTITIES, MUCH LESS THOSE THAT APPLY TO MR.
20 CARRANZA.

21 IN A CASE LIKE THIS, I WOULD SUBMIT THAT WE BOW TO
22 THE FINDING OF THE JURY WHERE THEY DETERMINED THE DRUG
23 QUANTITY THAT WAS APPLICABLE BASED ON THE SPECIAL JURY
24 VERDICT. THANK YOU.

25 **THE COURT:** MR. GOULIAN.

1 **MR. GOULIAN:** YOUR HONOR, IT'S WELL ESTABLISHED
2 THE JURY'S VERDICT IS NOT BINDING ON THE COURT, AND IN
3 FACT IT WOULD BE ERROR FOR THE COURT TO SIMPLY ADOPT THE
4 JURY'S FINDING WITHOUT MAKING AN INDEPENDENT CONSIDERATION
5 OF THE EVIDENCE AND ADDITIONAL INFORMATION PRESENTED UNDER
6 A PREPONDERANCE OF THE EVIDENCE STANDARD.

7 NOW, THE INFORMATION FROM MR. LIVENGOD WAS NOT A
8 PROFFER; HE TESTIFIED TO IT. THE QUANTITIES THAT HE
9 TESTIFIED TO WERE CONSISTENT WITH WHAT HE HAD PREVIOUSLY
10 STATED IN HIS INTERVIEWS. THEY WERE CORROBORATED BY THE
11 RECORDED TELEPHONE CONVERSATIONS BETWEEN HIMSELF AND MR.
12 CARRANZA.

13 JUST TO REMIND THE COURT, THERE WERE A SERIES OF
14 RECORDED TELEPHONE CONVERSATIONS IN WHICH MR. LIVENGOD
15 WAS ATTEMPTING TO SET UP A MULTI-KILOGRAM COCAINE DEAL, 5
16 TO 10 KILOGRAMS OF COCAINE. THERE WERE REPEATED
17 CONVERSATIONS REFERRING TO THOSE QUANTITIES.

18 AND THEN IN THE CONVERSATION ON MAY 13, 2007, MR.
19 CARRANZA TELLS MR. LIVENGOD THAT HE HAD RECEIVED
20 40 KILOGRAMS OF COCAINE.

21 NOW THAT'S NOT PART OF THE WEIGHT THAT'S IN THE
22 PRESENCE REPORT BUT IT'S STRONG CORROBORATION FOR THE
23 INFORMATION PROVIDED BY MR. LIVENGOD. EVEN MORE
24 SIGNIFICANTLY IS THE FACT THAT MR. CARRANZA, IN THAT
25 CONVERSATION, REFERS TO HIS BROTHER HAVING BEEN RECENTLY

1 ARRESTED AND THAT HE LOST A LOT OF MONEY FROM THAT. THAT
2 WAS THE SEPARATE -- THAT WAS THE ARREST OF HIS BROTHER
3 ABATO (PHONETIC) CARRANZA, THAT MR. LIVENGOOD HAD SET UP
4 SEPARATELY, AND MR. CARRANZA IS MAKING REFERENCE TO THIS
5 FOUR DAYS LATER.

6 SO THAT JUST SHOWS IT WAS, IN FACT, DANIEL CARRANZA
7 THAT MR. LIVENGOOD WAS SPEAKING WITH.

8 MR. LIVENGOOD'S INFORMATION WAS ALSO CORROBORATED BY
9 SOME INFORMATION THAT THE JURY WAS NOT ABLE TO HEAR, AND
10 THAT IS MR. CARRANZA'S CONFESSION TO THE LEE COUNTY
11 DEPUTY. AS YOU WILL RECALL, I PUT THAT DEPUTY ON THE
12 STAND AND THERE WAS A HEARSAY OBJECTION BASED ON THE FACT
13 IT CAME THROUGH AN INTERPRETER.

14 AND, YOUR HONOR, HAVING DONE SOME ADDITIONAL
15 RESEARCH, AND I HAVE SOME CASES TO SUPPORT IT, THAT
16 STATEMENTS THROUGH AN INTERPRETER ARE NOT CONSIDERED TO BE
17 HEARSAY UNLESS THERE'S SOME REASON TO THINK THAT THE
18 INTERPRETER MAY NOT HAVE BEEN INTERPRETING ACCURATELY. IN
19 THIS CASE, THE INTERPRETER WORKED FOR MR. CARRANZA'S STATE
20 ATTORNEY AT THE TIME AND SHE WAS THERE ESSENTIALLY TO
21 ASSIST WITH HIS COOPERATION.

22 IN THAT DEBRIEF, AND I HAVE THE DEPUTY HERE TO
23 TESTIFY TO IT, IF NECESSARY, MR. CARRANZA SAID HE HAD BEEN
24 SELLING COCAINE SINCE 2006 AND THAT HE HAD SOLD
25 ONE-AND-A-QUARTER KILOGRAMS OF COCAINE TO THE INFORMANT

1 THAT HAD BEEN USED TO SET HIM UP IN LEE COUNTY. SO THAT
2 WAS JUST THAT ONE INFORMANT, AND HE WAS ARRESTED
3 ATTEMPTING TO DELIVER A QUARTER KILOGRAM OF COCAINE TO
4 THAT INFORMANT.

5 SO THAT'S ADDITIONAL CORROBORATION FOR WHAT
6 MR. LIVENGOOD TESTIFIED AND THE JURY DID NOT HEAR ABOUT
7 MR. CARRANZA'S CONFESSION. I NOTE THAT THE CASE BEGAN
8 WITH MR. -- OR THE INVESTIGATION BEGAN WITH MR. CARRANZA'S
9 ARREST IN 2005 IN WARREN COUNTY, AGAIN WHEN HE HAD
10 DELIVERED A QUARTER KILOGRAM OF COCAINE TO SOME OTHER
11 INDIVIDUALS AND THEN HE WAS ARRESTED SHORTLY AFTER THAT
12 WITH ABOUT 50 GRAMS ADDITIONAL, AND A GUN.

13 SO, YOUR HONOR, WE HAVE -- MY POINT IS SIMPLY THAT
14 MR. LIVENGOOD'S TESTIMONY IS SUPPORTED BY EXTENSIVE
15 CORROBORATION FROM THE DRUG SEIZURES, FROM HIS OWN
16 CONFESSION, AND FROM THE RECORDED TELEPHONE CONVERSATIONS.
17 THE INFORMATION IS RELIABLE AND I ASK THE COURT ADOPT THE
18 FINDINGS IN THE PSR.

19 **THE COURT:** THAT OBJECTION IS OVERRULED.

20 THE THIRD OBJECTION IS TO PARAGRAPH 48. THE
21 DEFENDANT OBJECTS TO RECEIVING A TWO-LEVEL ENHANCEMENT FOR
22 POSSESSING A DANGEROUS WEAPON.

23 YOU WANT TO BE HEARD FURTHER ON THAT, MR. MCCOPPIN?

24 **MR. McCOPPIN:** NO, YOUR HONOR. WE MAINTAIN THE
25 OBJECTION BUT FEEL THAT IT'S ADEQUATELY EXPRESSED IN THE

1 PROBATION REPORT.

2 **THE COURT:** ALL RIGHT. THAT OBJECTION IS
3 OVERRULED.

4 FOURTH OBJECTION IS TO PARAGRAPH 50, 3-LEVEL
5 ENHANCEMENT FOR BEING A SUPERVISOR OR MANAGER.

6 YOU WANT TO BE HEARD FURTHER ON THAT?

7 **MR. McCOPPIN:** YES, YOUR HONOR, BRIEFLY.

8 AT TRIAL THERE WAS WHAT APPEARED TO BE CONFLICTING
9 TESTIMONY ABOUT WHO WAS RELATED TO WHOM, AS FAR AS THE
10 THREE CARRANZA BROTHERS AND AS FAR AS WHATEVER DRUG
11 TRANSACTIONS THEY MAY OR MAY NOT HAVE ENGAGED IN TOGETHER.

12 THERE DID NOT APPEAR TO BE ANY SORT OF ORGANIZED
13 SCHEME, AS FAR AS PARTNERSHIPS OR CO-WORKING ARRANGEMENTS
14 THAT ROSE TO THE LEVEL OF FIVE OR MORE PARTICIPANTS. IT
15 SEEMED TO BE MORE LOCAL OR A SMALLER GROUP THAN IS
16 PRESENTED HERE IN THE PRESENTENCE REPORT BASED ON THE
17 EVIDENCE AT TRIAL, AND FOR THOSE REASONS I MAINTAIN THE
18 OBJECTION, YOUR HONOR.

19 **THE COURT:** MR. GOULIAN.

20 **MR. GOULIAN:** YOUR HONOR, I WOULD AGREE THAT
21 GIVEN THE LENGTHY PERIOD OF TIME OF THE CHARGED
22 CONSPIRACY, THAT THE FIVE PARTICIPANTS MAY NOT BE CORRECT.
23 I WOULD HAVE NO OBJECTION TO A TWO-LEVEL ENHANCEMENT FOR
24 THE MANAGER.

25 **THE COURT:** ALL RIGHT. THAT OBJECTION IS

1 SUSTAINED.

2 ALL RIGHT. OBJECTION FIVE IS TO PARAGRAPH 54, NOT
3 RECEIVING THE TWO-LEVEL REDUCTION FOR ACCEPTANCE OF
4 RESPONSIBILITY.

5 YOU WANT TO BE HEARD FURTHER?

6 **MR. McCOPPIN:** YES, PLEASE.

7 YOUR HONOR, THIS CASE WAS A BIT UNUSUAL, AT LEAST
8 FROM MY PERSPECTIVE, IN THAT MR. CARRANZA FREELY ADMITTED
9 GUILT TO THOSE OFFENSES THAT HE BELIEVED HIMSELF TO BE
10 GUILTY OF; IN THIS CASE THE SALE OF THE DRUG QUANTITY
11 RELATED TO HIS 2005 ARREST. THAT COMPRISED COUNT TWO OF
12 THE INDICTMENT IN THIS CASE, AND MR. CARRANZA, IN FACT,
13 PLED GUILTY TO THAT BEFORE THE JURY TRIAL EVEN BEGAN.

14 IF YOU WILL RECALL, AT TRIAL I DIDN'T ASK ANY
15 QUESTIONS OF ANY OFFICERS RELATED TO THE 22005 ARREST.

16 SIMILARLY, WHEN MR. CARRANZA WAS LATER ARRESTED IN
17 2009, THE ONLY QUESTIONS THAT I ASKED THAT DETECTIVE WERE
18 IN RELATION TO THE SUBSTANTIAL ASSISTANCE THAT MR.
19 CARRANZA PROVIDED IN RELATION TO THAT 2009 ARREST.

20 MR. CARRANZA, IN THE MOST OBVIOUS WAY HE COULD, PLED
21 GUILTY TO THOSE OFFENSES HE BELIEVED HIMSELF TO BE GUILTY
22 OF AND GRANTED ME PERMISSION TO CONCEDE HIS PARTICIPATION
23 IN THE 2009 OFFENSES, WHICH I DID BEFORE THE JURY.

24 THE ISSUE AT HAND WAS THE TREMENDOUS DRUG QUANTITY
25 WEIGHT THAT THE GOVERNMENT'S WITNESS, MR. LIVENGOOD,

1 PLACED ON MR. CARRANZA. IN A LARGE PART OF THE TIME, MR.
2 CARRANZA CONTENDS HE WAS OUT OF THE COUNTRY ENTIRELY.

3 FOR THOSE REASONS, I WOULD SUBMIT THAT MR. CARRANZA
4 HAS ADMITTED HIS GUILT TO THE EXTENT THAT HE CAN WHILE
5 FULFILLING HIS REQUIREMENT THAT HE HONESTLY CONVERSE WITH
6 THE COURT. I ASK THAT YOU ALLOW THAT MOTION.

7 **THE COURT:** MR. GOULIAN.

8 **MR. GOULIAN:** YOUR HONOR, THE GUIDELINES MAKE
9 CLEAR THAT THE ADJUSTMENT FOR ACCEPTANCE OF RESPONSIBILITY
10 IS NOT INTENDED TO APPLY WHEN THE DEFENDANT PUTS THE
11 GOVERNMENT TO ITS BURDEN OF PROOF AT TRIAL. THE
12 GOVERNMENT HAD TO GO TO TRIAL IN ORDER TO CONVICT HIM OF
13 THE CONSPIRACY CHARGE. HE DID NOT PLEAD GUILTY TO IT, HE
14 DID NOT ACCEPT RESPONSIBILITY FOR IT, SO THIS ADJUSTMENT
15 WOULD NOT BE APPROPRIATE.

16 **THE COURT:** I THINK THE GUIDELINES ARE PRETTY
17 CLEAR IN THAT RESPECT. OVERRULED.

18 RECALCULATE, MR. PROBATION OFFICER.

19 **PROBATION OFFICER:** YOUR HONOR, THE NEW
20 GUIDELINE RANGE IS 324 TO 405-MONTHS.

21 **THE COURT:** WAIT A MINUTE. DOES THAT AFFECT
22 TOTAL OFFENSE LEVEL?

23 **PROBATION OFFICER:** THE TOTAL OFFENSE LEVEL IS
24 40, IN LIGHT OF THE SUPERVISORY ROLE ENHANCEMENT
25 ADJUSTMENT. THE FINE RANGE IS THE SAME.

1 **THE COURT:** WAIT A MINUTE NOW. TOTAL OFFENSE
2 LEVEL IS 40. CRIMINAL HISTORY CATEGORY IS II. CUSTODY
3 RANGE IS?

4 **PROBATION OFFICER:** 324 TO 405-MONTHS. AND THE
5 FINE RANGE IS THE SAME.

6 **THE COURT:** AND COUNT TWO WOULD, OF COURSE,
7 REMAIN THE SAME. SUPERVISED RELEASE REMAIN THE SAME?

8 **PROBATION OFFICER:** YES, SIR.

9 **THE COURT:** ALL RIGHT.

10 THE COURT ADOPTS THE FACTUAL FINDINGS AND THE
11 GUIDELINE APPLICATION IN THE PRESENTENCE REPORT, WITH THE
12 EXCEPTION NOTED, AND DETERMINES THAT THE TOTAL OFFENSE
13 LEVEL IS 40. THE CRIMINAL HISTORY CATEGORY IS II. THE
14 IMPRISONMENT RANGE IS 324 TO 405-MONTHS ON COUNT ONE AND
15 240-MONTHS ON COUNT TWO. SUPERVISED RELEASE IS FOUR TO
16 FIVE YEARS. FINE RANGE IS 25,000 TO \$3 MILLION.
17 RESTITUTION IS NOT AT ISSUE. THERE'S A \$200 SPECIAL
18 ASSESSMENT.

19 ARE THERE OBJECTIONS BY EITHER COUNSEL TO THE
20 COMPUTATION?

21 **MR. GOULIAN:** NO, YOUR HONOR.

22 **MR. McCOPPIN:** NONE BASED ON YOUR RULINGS, YOUR
23 HONOR.

24 **THE COURT:** ALL RIGHT, MR. MCCOPPIN, BE GLAD TO
25 HEAR FROM YOU WITH REGARD TO AN APPROPRIATE SENTENCE.

1 **MR. McCOPPIN:** YOUR HONOR, I WOULD SUBMIT AN
2 APPROPRIATE SENTENCE IN THIS CASE IS IN THE 15-YEAR RANGE
3 FOR THE FOLLOWING REASONS.

4 FIRST OF ALL, I ASK YOU TO TAKE INTO CONSIDERATION
5 THE DEFENDANT'S CRIMINAL HISTORY. THIS MAY BE A MORE
6 APPROPRIATE PLACE TO EXPRESS IT TO YOU AND I ASK YOU TO
7 INCORPORATE WHAT I PREVIOUSLY STATED HERE NOW.

8 WE HAVE A PERSON WHO, CHARGED WITH DRIVING WHILE
9 LICENSE REVOKED, IS ASSIGNED THREE CRIMINAL HISTORY
10 POINTS. I WOULD SUBMIT THAT THAT OVERREPRESENTS THE
11 CRIMINAL HISTORY AND THAT APPLYING CATEGORY I WOULD BE
12 MORE APPROPRIATE UNDER THESE CIRCUMSTANCES.

13 AS TO THE DEFENDANT'S FAMILY SITUATION, HE'S BEEN
14 MARRIED FOR WELL OVER 15 YEARS. HE HAS SIX CHILDREN. I
15 NOTE THAT PARAGRAPHS 31 THROUGH 44 OF THE PRESENTENCE
16 REPORT INDICATE A SUBSTANTIAL AND VARIED WORK HISTORY IN
17 VARIOUS SORTS OF PHYSICAL LABOR THROUGHOUT HIS ADULT LIFE.

18 HE DOESN'T APPEAR TO BE THE DRUG DEALER THAT WE'RE
19 USED TO SEEING WITH NO OTHER EMPLOYMENT OR SOURCE OF
20 INCOME. HERE WE HAVE A FAMILY MAN WHO HAS CLEARLY MADE
21 SOME POOR CHOICES IN RELATION TO SUBSTANCE ABUSE OR DRUG
22 SALES. BUT ACCORDING TO THE PRESENTENCE REPORT AND TO MR.
23 CARRANZA'S STATEMENTS, HE SUPPORTS HIS FAMILY THROUGH HIS
24 OWN PHYSICAL LABOR.

25 I ALSO SUBMIT THAT IT WOULD BE APPROPRIATE TO EITHER

1 DEPART OR VARY DOWNWARD BASED ON THE SUBSTANTIAL
2 ASSISTANCE THAT YOU HEARD TESTIFIED TO FROM THE WITNESS
3 STAND IN THE TRIAL OF THIS CASE.

4 IN THE 2009 CASE, THE DETECTIVE WHO MADE THAT ARREST
5 SPOKE WITH MR. CARRANZA. MR. CARRANZA IDENTIFIED TWO
6 LOCATIONS, ONE WHERE HE OBTAINED THE COCAINE THAT HE WAS
7 TO DELIVER TO THE BUYER; AND SECONDLY, THE HOUSE WHERE HE
8 WAS TO TAKE THE PROCEEDS OF THIS SALE TO. AS I RECALL,
9 THE SECOND HOUSE THAT WAS IDENTIFIED WAS LATER SEARCHED
10 WITH A WARRANT, A SIZABLE AMOUNT OF DRUGS AND MONEY WAS
11 SEIZED.

12 SO IN A CASE WHERE MR. CARRANZA COULD HAVE PLED
13 GUILTY BASED ON SOME SORT OF AGREEMENT AS TO DRUG WEIGHT,
14 I WOULD SUBMIT THAT HE VERY LIKELY WOULD HAVE RECEIVED
15 SOME SORT OF DOWNWARD MOTION BY THE GOVERNMENT.

16 MR. LIVENGOOD RECEIVED IT, MR. CARRANZA'S BROTHER RECEIVED
17 IT, AND I WOULD SUBMIT THAT DANIEL HERE WOULD HAVE
18 RECEIVED IT TOO, BUT FOR THE ISSUE OF HONESTLY ADMITTING
19 HIS GUILT WHEN THE GOVERNMENT'S MEASURE OF DRUG WEIGHT IS
20 SO MUCH GREATER THAN MR. CARRANZA KNOWS HE'S SOLD OVER THE
21 YEARS.

22 FOR THOSE REASONS, THE FAMILY HISTORY, THE WORK
23 HISTORY, THE SUBSTANTIAL ASSISTANCE, THE OVERREPRESENTED
24 CRIMINAL HISTORY, ALL OF THOSE FACTORS PLAY INTO 3553
25 RATHER CLEARLY.

1 REFLECTING THE SERIOUSNESS OF THE OFFENSE. FOR
2 SOMEONE THAT HAS NO SERIOUS CONVICTION EVER, A SENTENCE IN
3 THE 15-YEAR RANGE WOULD SEEM QUITE APPROPRIATE AS A
4 DETERRENCE, AS A PROTECTION FOR THE PUBLIC, WHEN COMBINED
5 WITH THE FACT THAT UPON MR. CARRANZA'S RELEASE, IT IS VERY
6 CLEAR HE WILL BE DEPORTED FROM THE COUNTRY. SHOULD HE
7 CHOOSE TO RE-ENTER, HE WOULD BE SUBJECT TO VERY SEVERE
8 PENALTIES. I EXPLAINED THIS TO HIM; HE KNOWS THAT.

9 I DON'T EXPECT ANY COURT IN THE UNITED STATES WILL
10 EVER SEE MR. CARRANZA AGAIN. THE QUESTION IS, IS HE
11 RELEASED AT A TIME WHERE HE COULD STILL KNOW HIS CHILDREN
12 OR NOT?

13 THANK YOU.

14 **THE COURT:** MR. CARRANZA, ANYTHING YOU WANT TO
15 SAY BEFORE I PASS SENTENCE?

16 **THE DEFENDANT:** FIRST OFF, I WOULD LIKE TO ASK
17 FOR YOUR FORGIVENESS, THE FORGIVENESS OF THE U. S.
18 ATTORNEY AND OF THE COURT. I ASK YOU JUST GIVE ME A JUST
19 SENTENCE BECAUSE I HAVE CHILDREN OF MINOR AGE THAT ARE
20 WAITING FOR ME AT HOME. THAT'S ALL.

21 **THE COURT:** YOU MAY HAVE A SEAT. MR. GOULIAN.

22 **MR. GOULIAN:** YOUR HONOR, THE GOVERNMENT ASKS
23 FOR A GUIDELINE SENTENCE WHICH I SUBMIT IS APPROPRIATE
24 GIVEN THE EXTENDED PERIOD OF TIME THAT MR. CARRANZA WAS
25 SELLING COCAINE.

1 HE WAS ARRESTED AGAIN IN WARREN COUNTY IN 2005, AND
2 UNFORTUNATELY THAT WAS NOT A WAKE-UP CALL FOR HIM. HE
3 SKIPPED OUT ON HIS BOND AND CONTINUED SELLING.

4 THERE HAVE BEEN SEVERAL REFERENCES TO MR. CARRANZA'S
5 FAMILY, AND THAT DID COME OUT AT THE TRIAL, YOUR HONOR, IN
6 CONNECTION WITH HIS ARREST IN LEE COUNTY LAST YEAR WHEN HE
7 SHOWED UP AT THE INFORMANT'S HOUSE TO DELIVER A QUARTER
8 KILOGRAM OF COCAINE. HE SHOWED UP IN A MINIVAN AND THE
9 OFFICERS COULD SEE THAT THERE WERE OTHER PEOPLE IN THAT
10 MINIVAN AND THERE WERE GUNS POINTED AT IT AND THERE WAS A
11 LOT OF COMMOTION GOING ON INSIDE, AND IT TURNED OUT TO BE
12 HIS CHILDREN THAT HE BROUGHT TO THE DRUG DEAL. SO, YOU
13 KNOW, I DON'T DOUBT THAT HE WAS SELLING DRUGS TO SUPPORT
14 HIS FAMILY BUT HE ALSO PUT THEM AT RISK AS WELL, AT LEAST
15 ON THAT OCCASION.

16 YOUR HONOR, GIVEN THE LONGSTANDING DRUG DEALING HERE
17 AND THE QUANTITIES INVOLVED, I THINK A GUIDELINE SENTENCE
18 IS APPROPRIATE.

19 **THE COURT:** MR. PROBATION OFFICER.

20 (BENCH CONFERENCE HELD WITH THE PROBATION OFFICER OFF
21 THE RECORD.)

22 **THE COURT:** ALL RIGHT. THE COURT FINDS THAT THE
23 DEFENDANT'S CRIMINAL HISTORY CATEGORY, AS SET FORTH IN THE
24 PRESENTENCE REPORT, OVERSTATES THE DEFENDANT'S TRUE
25 CRIMINAL HISTORY AND THEREFORE DEPARTS DOWNWARDLY TO

1 CRIMINAL HISTORY CATEGORY I, WHICH RESULTS IN A GUIDELINE
2 IMPRISONMENT RANGE OF 292 TO 365-MONTHS. ALL OTHER
3 ASPECTS OF THE RANGE -- OF THE GUIDELINE RANGE REMAINING
4 THE SAME.

5 PURSUANT TO THE SENTENCING REFORM ACT OF 1984 AND IN
6 ACCORDANCE WITH THE SUPREME COURT DECISION OF *UNITED*
7 *STATES AGAINST BOOKER*, IT IS THE JUDGMENT OF THE COURT
8 THAT THE DEFENDANT, DANIEL AGUIRRE CARRANZA, IS COMMITTED
9 TO THE CUSTODY OF THE BUREAU OF PRISONS FOR A TERM OF
10 292-MONTHS ON COUNT ONE AND A TERM OF 240-MONTHS ON COUNT
11 TWO, TO BE SERVED CONCURRENTLY.

12 UPON RELEASE FROM IMPRISONMENT, THE DEFENDANT SHALL
13 BE PLACED ON SUPERVISED RELEASE FOR A TERM OF FIVE YEARS.
14 THIS TERM CONSISTS OF A TERM OF FIVE YEARS ON COUNT ONE
15 AND A TERM OF THREE YEARS ON COUNT TWO, TO RUN
16 CONCURRENTLY.

17 WITHIN 72 HOURS OF RELEASE FROM THE CUSTODY OF THE
18 BUREAU OF PRISONS, THE DEFENDANT SHALL REPORT IN PERSON TO
19 THE PROBATION OFFICE IN THE DISTRICT TO WHICH HE'S
20 RELEASED. WHILE ON SUPERVISED RELEASE, HE SHALL NOT
21 COMMIT ANOTHER FEDERAL, STATE, OR LOCAL CRIME; HE SHALL
22 NOT ILLEGALLY POSSESS A CONTROLLED SUBSTANCE; HE SHALL NOT
23 POSSESS A FIREARM OR DESTRUCTIVE DEVICE; HE SHALL COMPLY
24 WITH THE STANDARD CONDITIONS THAT HAVE BEEN ADOPTED BY THE
25 COURT AND THE FOLLOWING ADDITIONAL CONDITIONS:

1 UPON COMPLETION OF THE TERM OF IMPRISONMENT, THE
2 DEFENDANT IS TO BE SURRENDERED TO A DULY AUTHORIZED
3 IMMIGRATION OFFICIAL FOR DEPORTATION, IN ACCORDANCE WITH
4 ESTABLISHED PROCEDURES PROVIDED BY THE IMMIGRATION AND
5 NATURALIZATION ACT. AS A FURTHER CONDITION OF SUPERVISED
6 RELEASE, IF ORDERED DEPORTED, THE DEFENDANT SHALL REMAIN
7 OUTSIDE OF THE UNITED STATES.

8 THE DEFENDANT SHALL PARTICIPATE AS DIRECTED IN A
9 PROGRAM APPROVED BY THE PROBATION OFFICE FOR THE TREATMENT
10 OF NARCOTIC ADDICTION, DRUG DEPENDENCY, OR ALCOHOL
11 DEPENDENCY, WHICH WILL INCLUDE URINALYSIS TESTING OR OTHER
12 DRUG DETECTION MEASURES, AND MAY REQUIRE RESIDENCE OR
13 PARTICIPATION IN A RESIDENTIAL TREATMENT FACILITY.

14 HE SHALL CONSENT TO WARRANTLESS SEARCH BY THE U.S.
15 PROBATION OFFICER OR, AT THE REQUEST OF THE PROBATION
16 OFFICER, ANY OTHER LAW ENFORCEMENT OFFICER OF HIS PERSON
17 AND PREMISES, INCLUDING ANY VEHICLE, TO DETERMINE
18 COMPLIANCE WITH THE CONDITIONS OF THIS JUDGMENT.

19 HE SHALL COOPERATE IN THE COLLECTION OF DNA, AS
20 DIRECTED BY THE PROBATION OFFICE.

21 FURTHER ORDERED HE PAY THE UNITED STATES A SPECIAL
22 ASSESSMENT OF \$200, DUE IMMEDIATELY.

23 THE COURT FINDS THAT THE DEFENDANT DOES NOT HAVE THE
24 ABILITY TO PAY A FINE IN ADDITION TO PROVIDING FINANCIAL
25 SUPPORT TO HIS DEPENDENTS, SO NONE IS IMPOSED.

1 IT'S ADJUDGED, PURSUANT TO 21 U.S.C. SECTION 862, THE
2 DEFENDANT SHALL BE INELIGIBLE FOR ALL FEDERAL BENEFITS FOR
3 A PERIOD OF FIVE YEARS BEGINNING THIS DATE.

4 MR. CARRANZA, FROM THE SENTENCE I HAVE JUST IMPOSED,
5 YOU HAVE A RIGHT TO APPEAL TO THE UNITED STATES COURT OF
6 APPEALS FOR THE 4TH CIRCUIT. IF YOU CAN NOT AFFORD
7 COUNSEL, COUNSEL WILL BE APPOINTED FOR YOU.

8 MR. MARSHAL, HE'S IN YOUR CUSTODY.

20 END OF TRANSCRIPT

1 CERTIFICATE

2 THIS IS TO CERTIFY THAT THE FOREGOING TRANSCRIPT OF
3 PROCEEDINGS TAKEN AT THE CRIMINAL SESSION OF UNITED STATES
4 DISTRICT COURT IS A TRUE AND ACCURATE TRANSCRIPTION OF THE
5 PROCEEDINGS TAKEN BY ME IN MACHINE SHORTHAND AND
6 TRANSCRIBED BY COMPUTER UNDER MY SUPERVISION.

7 THIS THE 21ST DAY OF OCTOBER, 2010.

8
9 /S/ DONNA J. TOMAWSKI

10 DONNA J. TOMAWSKI
11 OFFICIAL COURT REPORTER

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